

February 14, 2002

**CERTIFIED MAIL, RETURN
RECEIPT REQUESTED, AND
BY REGULAR MAIL**

**FREEDOM OF
INFORMATION APPEAL**

Co-Director, Office of Information and Privacy
U.S. Department of Justice
Flag Building, Suite 570
Washington, D.C. 20530

Re: "Information Appeal", Freedom of Information Privacy Act (FOIPA) Request
to FBI Field Office, San Francisco, California

Dear Sir:

By letter dated January 30, 2002, from John A. Lohse, Chief Division Counsel, I was notified that a search of the automated indices to the central records system maintained in the San Francisco Field Office located no records responsive to my FOIPA request indicating that I had ever been of investigatory interest to the FBI.

I have reason to believe there are records referencing me in the possession of the San Francisco Field Office for numerous reasons. First, the United States Department of Justice and the Federal Bureau of Investigation have produced redacted documents from a San Francisco FBI file. Specifically, in a prior FOIPA Request, now made the basis of James Lutch Negley v. U.S. Dept. of Justice and Federal Bureau of Investigation, Civil Action No. A-01-CA-57-JN, United States District Court for the Western District of Texas, Austin Division, 15 documents produced by the government indicate they come from a file numbered **49A-SF-106204**. Presumably, the "SF" refers to San Francisco. Furthermore, certain documents relating to me, produced from a file numbered **[149A-SC-C27507]**, indicate that memos and correspondence had been routed to the San Francisco Field Office. These previous disclosures in the aforementioned cause of action lead me to believe that further documents may exist at the San Francisco Field Office.

Second, I have further reason to believe records with reference to me in the possession of the San Francisco Field Office exist because I was interviewed by individuals who identified themselves as agents of the Federal Bureau of Investigation at San Francisco, California, on or about September 19, 1995. John Reger was one of the agents that

OCT 17 2003
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

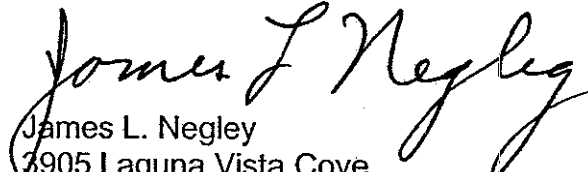
February 14, 2002
Page 2

conducted this interview of me. The agents advised me that they were assigned to the Bureau's Redding and Sacramento field offices, respectively. In addition, sometime during the period of approximately 1989 through 1991, I spoke to agents of the Federal Bureau of Investigation at their Los Angeles Field Office. During that conference or interview, I made complaints against an individual by the name of Adrian Joseph.

With reference to my complaints against Adrian Joseph, I have reason to believe that I may have been the subject of a Securities and Exchange Commission investigation of Orbit Technologies, Inc., which investigation I believe was being conducted by the Securities and Exchange Commission out of its Miami, Florida office. Adrian Joseph was associated at one time with Orbit Technologies, Inc.

Accordingly, I am filing this administrative appeal of Chief Division Counsel John A. Lohse's decision set forth in his correspondence of January 30, 2002, a copy of which is attached for your review, reference and information.

Respectfully submitted,


James L. Negley
2905 Laguna Vista Cove
Austin, Texas 78746

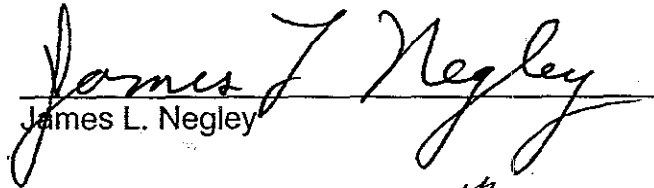
Enclosure

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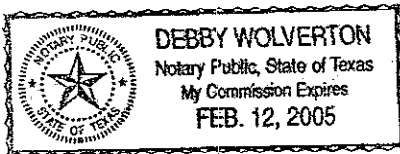
VERIFICATION


STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, personally appeared James L. Negley, who, having identified himself to me and being sworn by me, stated on oath that he has signed this verification below with his original signature.


James L. Negley

SWORN TO AND SUBSCRIBED to before me on this the 14th day of February, 2002.




Notary Public, State of Texas

My commission expires: 2-12-2005

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to
File No.

190-0

450 Golden Gate Avenue
Box 36015
San Francisco, CA 94102-9523

January 30, 2002

Mr. James Lutcher Negley
3905 Laguna Vista Cove
Austin, Texas 78746

Dear Mr. Negley:

This is in response to your Freedom of Information Act
- Privacy Act request received by our office January 22, 2002.

A search of the indices to the Central Records System for records maintained by the San Francisco Division revealed no record responsive to your request indicating the subject of your request has been the subject of an FBI investigation.

In order to respond to our many requests in a timely manner, our focus is to retrieve records in the indices which indicate the requester/subject of the request is a main subject of an FBI investigation. Names which are the subject of an FBI investigation are entered into the indices as a "main file" index record.

Although no main file records responsive to your request were located, we are required to inform you that you are entitled to file an administrative appeal if you so desire. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, Flag Building, Suite 570, United States Department of Justice, Washington, D.C. 20530, within 60 days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the name of the office to which your original request was directed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John A. Lohse", is written over the typed name.

John A. Lohse
Chief Division Counsel

Enclosure: FBI File Fact Sheet

FBI FILE FACT SHEET

FOR YOUR INFORMATION . . .

- The primary function of the FBI is law enforcement. The FBI does not keep a file on every citizen of the United States.
- FBI files generally contain written reports of FBI investigations of a wide range of matters, including counterterrorism, foreign counterintelligence, organized crime/drugs, violent crime, white-collar crime, applicants, and civil rights.
- The FBI does not issue clearances or nonclearances for anyone other than its own personnel or persons having access to FBI facilities. Background investigations for security clearances are conducted by many different Government agencies. If you received a clearance while you were in the military or employed with some other government agency, you should write directly to that entity.
- An FBI identification record or "rap sheet" is not the same as an FBI "file" - it is simply a listing of information taken from fingerprint cards submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. IF YOU DESIRE A SEARCH OF THE FBI'S CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION RECORDS (FORMERLY KNOWN AS THE IDENTIFICATION DIVISION) FOR ANY ARREST RECORD (RAP SHEET) THAT MIGHT PERTAIN TO YOU PLEASE COMPLY WITH THE RULES AND REGULATIONS ATTACHED.

RULES AND REGULATIONS

[Order 556-73]
PART 16-PRODUCTION OR
DISCLOSURE OF
MATERIAL OR
INFORMATION

Subpart C-Production of FBI Identification Records in Response to Written Requests by Subjects Thereof

By order dated September 24, 1973, the Attorney General of the United States directed that the Federal Bureau of Investigation, hereinafter referred to as the FBI, publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted from a determination that 28 U.S.C. 534 does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, satisfactory proof of identity of the person whose identification record is requested and a processing fee of \$18.00.

Since the FBI Identification Division is not the source of the data appearing in identification records, and obtains all data thereon from fingerprint cards or related identification forms submitted to the FBI by local, state, and Federal agencies, the responsibility for authentication and correction of such data rests upon the contributing agencies. Therefore, the rules set forth for changing, correcting or updating such data require that the subject of an identification record make application to the original contributing agency in order to correct the deficiency complained of.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable because the material contained herein relates to the interpretation of 28 U.S.C. 534 as allowing the granting of an exemption to subjects of identification records and relief of prior administrative restrictions on dissemination of such records to them. Furthermore, it is deemed in the public interest that there be no delay in effective date of availability of identification records to the subjects thereof.

By virtue of the order of the Attorney General, dated September 24, 1973, and pursuant to the authority

delegated to the Director, FBI by 28 CFR 0.85(b), Part 16 of 28 CFR Chapter I, is amended by adding the following new Subpart C:

§ 16.30 Purpose and scope

This subpart contains the regulations of the Federal Bureau of Investigation, hereafter referred to as the FBI, concerning procedures to be followed when the subject of an identification record requests production thereof. It also contains the procedures for obtaining any change, correction or updating of such record.

§ 16.31 Definition of identification record

An FBI identification record, often referred to as a "rap sheet", is a listing of certain information taken from fingerprint cards submitted to and retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprint cards submitted in connection with Federal employment, naturalization, or military service. The identification record includes the name of the agency or institution which submitted the fingerprint card to the FBI. If the fingerprint card concerns a criminal offense, the identification record includes the date arrested or received, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint cards, disposition reports and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Identification Division is not the source of the arrest data reflected on an identification record.

§ 16.32 Procedure to obtain an identification record

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to FBI, Identification Division, Room 10104, * Washington, D.C. 20537-9700, or may present his/her written request in person during regular business hours to the FBI Identification Division, J. Edgar Hoover F.B.I. Building, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-in ink fingerprint impressions placed upon fingerprint cards or forms

commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

§ 16.33 Fee for production of identification record

Each written request for production of an identification record must be accompanied by a fee of \$18.00 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § 16.10 of this part. Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigence.

§ 16.34 Procedure to obtain change, correction or updating of identification records

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the Assistant Director of the FBI Identification Division, Washington, * D.C. 20537-9700. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency.

* PLEASE NOTE NEW ADDRESS*

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIV.
SCU MOD D2
1000 Custer Hollow Road
Clarksburg, WV 26306



7188 4171 0390 0001 0550

RETURN RECEIPT SERVICE	POSTAGE		POSTMARK OR DATE
	RESTRICTED DELIVERY FEE		
	CERTIFIED FEE	\$1.90	
	RETURN RECEIPT FEE	\$1.50	
SENT TO:		TOTAL POSTAGE AND FEE	
Code: JMP (Negley/General) 2: Appeal(San Francisco Office) File: Co-Director Office of Information and Privacy U.S. Department of Justice Flag Building, Suite 570 Washington, D.C. 20530			

PS FORM 3800

**RECEIPT FOR CERTIFIED MAIL**

NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (SEE OTHER SIDE)

SENDER:

- Complete items 1, 2 and 3.
- Indicate if restricted delivery is desired.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return receipt Fee will provide you the signature of the person delivered to and the date of delivery.

If you wish to receive the
 following service (for an extra fee):

☐ **Restricted Delivery**

Consult postmaster for fee.

1. Article Addressed to:

Co-Director
Office of Information and Privacy
U.S. Department of Justice
Flag Building, Suite 570
Washington, D.C. 20530

2. Article Number

7188 4171 0390 0001 0550

3. Service Type ☒ **CERTIFIED**

Date of Delivery

Received By (Print Name)

Ernest S. Parker

Enter delivery address
 if different than item 1.

Signature - (Addressee or Agent)

MAR 18 2002

PS Form 3811

DOMESTIC RETURN RECEIPT

Code: JMP (Negley/General) 2: Appeal(San Francisco Office)